



U. S. Department of Justice

Criminal Division

*Fraud Section
Bond Building, 4th Floor
1400 New York Ave., N.W.
Washington, DC 20005*

September 29, 2009

Nathan J. Muyskens, Esq.
Shook Hardy & Bacon L.L.P.
1155 F Street, N.W., Suite 200
Washington, D.C. 20004

Re: AGCO Corporation

Dear Mr. Muyskens:

RECEIVED

SEP 30 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

This letter sets out the deferred prosecution agreement (the "Deferred Prosecution Agreement" or the "Agreement") between AGCO Corporation ("AGCO"), on behalf of itself and its wholly-owned subsidiaries, including AGCO Limited ("AGCO Ltd."), AGCO Danmark A/S ("AGCO Denmark"), and AGCO S.A. (collectively referred to as the "AGCO Subsidiaries") and the United States Department of Justice, Criminal Division, Fraud Section (the "Department") relating to illegal conduct committed by the AGCO Subsidiaries in connection with certain AGCO United Nations Oil-For-Food contracts. The terms of the Agreement are as follows:

1. **Relevant Parties:** AGCO, by AGCO's undersigned attorneys, pursuant to the authority granted by AGCO's Board of Directors, enters into this Agreement with the Department, which shall apply to AGCO, a U.S. corporation with its principal place of business in Duluth, Georgia, and all its affiliates and subsidiaries, including the following wholly-owned subsidiaries: AGCO Ltd., a British corporation, headquartered in Kenilworth, England;¹ AGCO Denmark, a Danish company, headquartered in Copenhagen, Denmark; and AGCO S.A., a French corporation, headquartered in Courcouronnes, France.²

2. **Charges:** AGCO accepts and acknowledges that the United States will file a one-count criminal information in the United States District Court for the District of Columbia. The information charges AGCO Ltd. with conspiracy to commit the following offenses against the United States, in violation of Title 18, United States Code, Section 371: (a) wire fraud, in violation of Title 18, United States Code, Section 1343; and (b) falsification of the books and records of AGCO, an issuer, in violation of the books and records provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5), and 78ff(a).

¹ At all times relevant to the attached Statement of Facts, AGCO Ltd. was based in Coventry, England.

² At all times relevant to the attached Statement of Facts, AGCO S.A. was based in Beauvais, France.

3. **Waiver of Rights:** AGCO, on its own behalf and on behalf of AGCO Ltd., knowingly waives its right to indictment on the charges described in Paragraph 2 and contained in the Information, as well as all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b). In addition, AGCO knowingly waives any objection based on venue to the filing of the Information and the Agreement in the United States District Court for the District of Columbia.

4. **Acceptance of Responsibility:** AGCO admits, accepts, and acknowledges that it is responsible for the acts of its officers, employees, agents and those of the the AGCO Subsidiaries as set forth in the Statement of Facts attached to the Agreement as Appendix A. Should the Department initiate the prosecution deferred by this Agreement, AGCO and AGCO Ltd. agree that they will neither contest the admissibility of, nor contradict, in any such proceeding, the Statement of Facts.

5. **Monetary Penalty:** AGCO agrees, on behalf of itself and AGCO Ltd., to pay a monetary penalty of \$1,600,000 to the U.S. Treasury within ten (10) days of this Agreement. This amount is a final payment and shall not be refunded: (a) if the Department moves to dismiss the Information pursuant to this Agreement; or (b) should the Department later determine that AGCO or AGCO Ltd. has breached this Agreement and brings a prosecution against AGCO Ltd. Further, nothing in this Agreement shall be deemed an agreement by the Department that this amount is the maximum criminal fine that may be imposed in any such prosecution and the Department shall not be precluded in such a prosecution from arguing that the Court should impose a higher fine. The Department agrees, however, that in the event of a subsequent breach and prosecution, it will recommend to the Court that the amount paid pursuant to this Agreement be offset against whatever fine the Court shall impose as part of its judgment. AGCO and AGCO Ltd. understand that such a recommendation will not be binding on the Court. AGCO and AGCO Ltd. acknowledge that no tax deduction may be sought in connection with the payment of this \$1,600,000 penalty.

6. **Basis for Agreement:** The Department enters into this Agreement based upon the following facts and circumstances: (a) AGCO conducted an investigation of the criminal conduct described in the Statement of Facts; (b) AGCO cooperated in the Department's investigation of this matter; (c) AGCO has undertaken, and has agreed to undertake, further remedial measures to ensure that this conduct will not recur; and (d) AGCO has entered into an agreement with the U.S. Securities and Exchange Commission ("SEC") in connection with related conduct, and has or will pay further civil penalties in that case.

7. **Cooperation:** This Agreement shall be in effect for three years. During the three-year term of the Agreement, AGCO and the AGCO Subsidiaries agree to cooperate fully with the Department and any other authority or agency, domestic or foreign, designated by the Department, in any investigation of AGCO or the AGCO Subsidiaries or any of their present and former directors, officers, employees, agents, consultants, contractors and subcontractors, or any other party, in any and all matters relating to corrupt payments in connection with the operations

of AGCO and the AGCO Subsidiaries. AGCO and the AGCO Subsidiaries agree that their cooperation shall include, but not be limited to, the following:

a. AGCO and the AGCO Subsidiaries shall continue to cooperate fully with the Department, and with all other authorities and agencies designated by the Department, and shall truthfully disclose all information with respect to the activities of AGCO and the AGCO Subsidiaries and their present and former subsidiaries and affiliates, and the directors, officers, employees, agents, consultants, contractors and subcontractors thereof, concerning all matters relating to corrupt payments in connection with their operations, related false books and records, and inadequate internal controls about which AGCO and the AGCO Subsidiaries have any knowledge or about which the Department shall inquire. This obligation of truthful disclosure includes the obligation of AGCO and the AGCO Subsidiaries to provide to the Department, upon request, any document, record, or other tangible evidence relating to such corrupt payments, books and records, and internal controls about which the Department inquires of AGCO or the AGCO Subsidiaries.

b. Upon request of the Department, with respect to any issue relevant to its investigation of corrupt payments and false accounting in connection with the operations of AGCO and the AGCO Subsidiaries, or any of their present or former subsidiaries or affiliates, AGCO and the AGCO Subsidiaries shall designate knowledgeable employees, agents, or attorneys to provide to the Department with the information and materials described in Paragraph 7(a) above, on behalf of AGCO and the AGCO Subsidiaries. It is further understood that AGCO and the AGCO Subsidiaries must at all times provide complete, truthful, and accurate information.

c. With respect to any issue relevant to the Department's investigation of corrupt payments and false accounting in connection with the operations of AGCO and the AGCO Subsidiaries, or any of their present or former subsidiaries or affiliates, AGCO and the AGCO Subsidiaries shall use their best efforts to make available for interviews or testimony, as requested by the Department, present or former directors, officers, employees, agents and consultants of AGCO and the AGCO Subsidiaries, or any of their present or former subsidiaries or affiliates, as well as directors, officers, employees, agents and consultants of contractors and sub-contractors. This includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with federal law enforcement authorities. Cooperation under this paragraph will include identification of witnesses who, to the knowledge of AGCO and the AGCO Subsidiaries, may have material information regarding the matters under investigation.

d. With respect to any information, testimony, document, record, or other tangible evidence provided to the Department pursuant to this Agreement, AGCO and the AGCO Subsidiaries consent to any and all disclosures to other government agencies, whether agencies of the United States or a foreign government, of such materials as the Department, in its sole discretion, shall deem appropriate.

8. **Compliance Undertakings:** AGCO and the AGCO Subsidiaries represent that they will adhere to the requirements of Appendix B hereto and will implement a compliance and ethics program designed to detect and prevent violations of the FCPA and other applicable anti-corruption laws throughout their operations, including those of subsidiaries, affiliates, joint ventures, and contractors and subcontractors with responsibilities that include interactions with foreign officials. On an annual basis, AGCO shall provide a brief report in writing on its progress and experience in implementing its enhanced compliance policies and procedures. Implementation of these policies and procedures shall not be construed in any future enforcement proceeding as providing immunity or amnesty for any crimes not protected from prosecution by Paragraph 9 of this Agreement.

9. **Department Commitments:** In return for the full and truthful cooperation of AGCO and the AGCO Subsidiaries and compliance with all the terms and conditions of this Agreement, the Department agrees as follows:

a. The Department will not use any information in the attached Statement of Facts or any information AGCO disclosed to the Department prior to the date of this Agreement concerning business activities in Iraq under the United Nations Oil-for-Food Program against AGCO or the AGCO Subsidiaries in any criminal or civil case, except in a prosecution for perjury or obstruction of justice; in a prosecution for making a false statement; in a prosecution or other proceeding relating to any crime of violence; or in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the United States Code.

b. Except as provided in this Agreement, the Department will not bring any criminal or civil case against AGCO or the AGCO Subsidiaries based upon the conduct described in the attached Statement of Facts, or the conduct AGCO disclosed to the Department prior to the date of this Agreement concerning business activities in Iraq under the United Nations Oil-for-Food Program against AGCO or the AGCO Subsidiaries. This paragraph does not provide any protection against prosecution for any corrupt payments or false accounting, if any, made in the future by AGCO or the AGCO Subsidiaries, or any directors, officers, employees, agents or consultants, whether or not disclosed by AGCO or the AGCO Subsidiaries, pursuant to the terms of this Agreement. This paragraph provides protection against prosecution only with regard to those corrupt payments made in the past in connection with AGCO or the AGCO Subsidiaries' business activities in Iraq that: (i) are described in the attached Statement of Facts; or (ii) were disclosed to the Department prior to the date of this Agreement. This paragraph does not provide any protection against criminal prosecution of any present or former director, officer, employee, shareholder, agent, consultant, contractor, or subcontractor of AGCO and the AGCO Subsidiaries for any violations committed by them.

c. In consideration of the action of AGCO in conducting an investigation by outside legal counsel regarding the matters described in the attached Statement of Facts and other matters disclosed to the Department, the cooperation of AGCO with the investigation conducted by the Department, and the willingness of AGCO and the AGCO Subsidiaries to: (i) acknowledge responsibility for their behavior and that of their subsidiaries, affiliates and agents; (ii) continue their cooperation with the Department; and (iii) adopt and maintain remedial

measures and independently review and audit such measures, the Department agrees that any prosecution of AGCO or the AGCO Subsidiaries for the conduct set forth in the attached Statement of Facts, and for all other conduct AGCO disclosed to the Department prior to the date of this Agreement concerning its business activities in Iraq under the United Nations Oil-for-Food Program, be and hereby is deferred for a period of three (3) years from the date of this Agreement.

10. **Terms of Dismissal:** The Department further agrees that if at the end of the three-year term of this Agreement, AGCO and the AGCO Subsidiaries are, and have been, in full compliance with all of their obligations under this Agreement, the Department will not continue the criminal prosecution against AGCO Ltd. described in Paragraph 2, will move to dismiss the Information, and this Agreement shall expire.

11. **Breach of Agreement:** If the Department determines, in its sole discretion, that AGCO or the AGCO Subsidiaries, at any time during the three-year term of this Agreement, have committed any crime which would constitute a felony under federal law; have provided deliberately false, incomplete, or misleading information under this Agreement; or have otherwise breached this Agreement, AGCO and the AGCO Subsidiaries shall, thereafter, be subject to prosecution for any federal criminal violation of which the Department has knowledge. Any such prosecution may be premised on information provided by AGCO or the AGCO Subsidiaries. AGCO and the AGCO Subsidiaries acknowledge that the Department has made no representations, assurances, or promises concerning what sentence may be imposed by the Court if AGCO or the AGCO Subsidiaries breach this Agreement and this matter proceeds to judgment. AGCO and the AGCO Subsidiaries further acknowledge that any such sentence is solely within the discretion of the Court and that nothing in this Agreement binds or restricts the Court in the exercise of its discretion. In the event of a breach:

a. AGCO and the AGCO Subsidiaries agree that any prosecution that is not time-barred by the applicable statute of limitations on the date of this Agreement may be commenced against AGCO or the AGCO Subsidiaries in accordance with this Agreement, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the termination of this Agreement plus one year. All prior tolling agreements executed by AGCO and the Department in this matter are hereby incorporated by reference. Thus, by signing this agreement, AGCO, on behalf of itself and the AGCO Subsidiaries, agrees that the statute of limitations with respect to any prosecution that is not time-barred on the date of this Agreement shall be tolled for the term of this Agreement, plus one year. By this Agreement, AGCO and the AGCO Subsidiaries expressly intend to and do waive any rights with respect to the statute of limitations discussed herein.

b. All statements made by or on behalf of AGCO or the AGCO Subsidiaries to the Department or to the Court, including the attached Statement of Facts, and any testimony given by AGCO or the AGCO Subsidiaries before a grand jury or any tribunal, at any legislative hearings, or to the SEC, whether prior or subsequent to this Agreement, or any leads derived from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the Department against AGCO or any of the AGCO Subsidiaries.

c. AGCO and the AGCO Subsidiaries shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by or on behalf of AGCO or the AGCO Subsidiaries prior or subsequent to this Agreement, or any leads derived from there, should be suppressed. The decision whether conduct or statements of any individual will be imputed to AGCO or the AGCO Subsidiaries for the purpose of determining whether AGCO or the AGCO Subsidiaries has violated any provision of this Agreement shall be in the sole discretion of the Department.

12. **Successor Liability:** AGCO and the AGCO Subsidiaries agree that in the event they sell, merge, or transfer all or substantially all of their business operations as they exist during the term of this Agreement, whether such sale is structured as a stock or asset sale, merger, or transfer, it shall include in any contract for sale, merger or transfer a provision binding the purchaser or any successor-in-interest thereto to the obligations described in this Agreement.

13. **Public Statements:** AGCO and the AGCO Subsidiaries expressly agree that they shall not, through present or future attorneys, directors, officers, or any other person authorized to speak for them, make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by AGCO and the AGCO Subsidiaries set forth above or in the attached Statement of Facts. Any such contradictory statement shall, subject to cure rights below by AGCO and the AGCO Subsidiaries, constitute a breach of this Agreement and AGCO and the AGCO Subsidiaries thereafter shall be subject to prosecution as set forth in Paragraph 11 of this Agreement. The decision whether any public statement by any such person contradicting the Statement of Facts will be imputed to AGCO or the AGCO Subsidiaries for the purpose of determining whether they have breached this Agreement shall be in the sole discretion of the Department. If the Department determines that a public statement by any such person contradicts in whole or in part a statement contained in the Statement of Facts, the Department shall so notify AGCO and the AGCO Subsidiaries and they may avoid a breach of this Agreement by publicly repudiating such statement(s) within five (5) business days after notification. Consistent with the obligations of AGCO and the AGCO Subsidiaries, set forth above, AGCO and the AGCO Subsidiaries shall be permitted to raise defenses and to assert affirmative claims in civil and regulatory proceedings relating to the matters set forth in the Statement of Facts. This paragraph is not intended to apply to any statement made by any employee of AGCO or the AGCO Subsidiaries in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on behalf of AGCO or the AGCO Subsidiaries.

14. **Statements to the Media:** AGCO and the AGCO Subsidiaries agree that if AGCO or the AGCO Subsidiaries or any of their direct or indirect affiliates or subsidiaries issue a press release in connection with this agreement, AGCO shall first consult with the Department to determine whether: (a) the text of the release is true and accurate with respect to matters between the Department and AGCO and the AGCO Subsidiaries; and (b) the Department has no

objection to the release. Statements at any press conference concerning this matter shall be consistent with this press release.

15. **Agreement Binding on Parties Only:** It is understood that this Agreement is binding on AGCO, the AGCO Subsidiaries, and the Department, but does not bind any other federal agencies, or any state or local law enforcement or regulatory agencies, although the Department will bring the cooperation of AGCO and the AGCO Subsidiaries and their compliance with their obligations under this Agreement to the attention of such agencies and authorities if requested to do so by AGCO or the AGCO Subsidiaries.

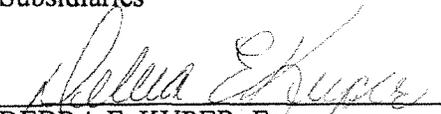
16. **Notice:** Any notice to AGCO or the AGCO Subsidiaries under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service or registered or certified mail, in each case addressed to 4205 River Green Parkway, Duluth, GA 30096-2568. Notice shall be effective upon actual receipt by the AGCO. Notice to the Department shall be made to Mark F. Mendelsohn (or his successor), Deputy Chief, Fraud Section, Criminal Division, U.S. Department of Justice, 1400 New York Avenue, N.W., Washington, D.C. 20005.

17. **Complete Agreement:** This Agreement sets forth all the terms of the Agreement between AGCO, the AGCO Subsidiaries, and the Department. No modifications or additions to this Agreement shall be valid unless they are in writing and signed by the Department, the attorneys for AGCO and the AGCO Subsidiaries, and a duly authorized representative of AGCO and the AGCO Subsidiaries.

AGREED:

**FOR AGCO CORPORATION
AND THE AGCO SUBSIDIARIES:**


NATHAN J. MUYSKENS, Esq.
Shook Hardy & Bacon L.L.P.
Counsel for AGCO Corporation and the AGCO
Subsidiaries


DEBRA E. KUPER, Esq.
Vice President, General Counsel and Corporate
Secretary
AGCO Corporation

FOR THE DEPARTMENT OF JUSTICE:

STEVEN A. TYRRELL
Chief, Fraud Section

By: 
STACEY LUCK
Senior Trial Attorney, Fraud Section
Criminal Division
United States Department of Justice
1400 New York Avenue, N.W.
Washington, DC 20005
202-305-0273

Filed at Washington, D.C., on this 30 day of Sept, 2009.

OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with counsel for AGCO Corporation ("AGCO"). I understand the terms of this Agreement and voluntarily agree, on behalf of AGCO, and its wholly-owned subsidiaries, including AGCO Limited ("AGCO Ltd."), AGCO Danmark A/S ("AGCO Denmark"), and AGCO S.A. (collectively referred to as the "AGCO Subsidiaries"), to each of its terms. Before signing this Agreement, I consulted with counsel for AGCO. Counsel fully advised me of the rights of AGCO and the AGCO Subsidiaries and of the consequences of entering into this Agreement.

I have carefully reviewed this Agreement with the Board of Directors of AGCO. I have advised and caused investigative and outside counsel for AGCO to advise the Board fully of the rights of AGCO and the AGCO Subsidiaries, of possible defenses, and of the consequences of entering into the Agreement.

No promises or inducements have been made other than those contained in this Agreement. Furthermore, no one has threatened or forced me, or to my knowledge any person authorizing this Agreement on behalf AGCO and AGCO's wholly-owned subsidiaries, including the AGCO Subsidiaries, in any way to enter into this Agreement. I am also satisfied with counsel's representation in this matter. I certify that I am an officer of AGCO and that I have been duly authorized by AGCO to execute this Agreement on behalf of AGCO and the AGCO Subsidiaries.

Date: September 30, 2009

By:



Debra E. Kuper
AGCO Corporation

CERTIFICATE OF COUNSEL

We are counsel for AGCO Corporation ("AGCO") and its wholly-owned subsidiaries, AGCO Limited ("AGCO Ltd."), AGCO Danmark A/S ("AGCO Denmark"), and AGCO S.A. (collectively referred to as the "AGCO Subsidiaries") in the matter covered by this Agreement. In connection with such representation, we have examined relevant documents and have discussed this Agreement with the Board of Directors. Based on our review of the foregoing materials and discussions, we are of the opinion that: (1) AGCO's representative has been duly authorized to enter into this Agreement on behalf of AGCO and AGCO's wholly-owned subsidiaries, including the AGCO Subsidiaries; and (2) this Agreement has been duly and validly authorized, executed, and delivered on behalf of AGCO and AGCO's wholly-owned subsidiaries, including the AGCO Subsidiaries, and is a valid and binding obligation of AGCO and the AGCO Subsidiaries. Further, I have carefully reviewed this Agreement with the Board of Directors and General Counsel of AGCO. I have fully advised them of the rights of AGCO and the AGCO Subsidiaries, of possible defenses, and of the consequences of entering into this Agreement. To my knowledge, the decision by AGCO and the AGCO Subsidiaries to enter into this Agreement is an informed and voluntary one.

Date: 9/30/09



NATHAN J. MUYSKENS, Esq.
Shook Hardy & Bacon L.L.P.
Counsel for AGCO Corporation and the AGCO
Subsidiaries